



January 25, 2008

SENATE BILL No. 180

DIGEST OF SB 180 (Updated January 22, 2008 3:45 pm - DI 106)

Citations Affected: IC 35-42; noncode.

Synopsis: Child abduction and seduction. Provides that a person who is at least 18 years of age commits child seduction if: (1) the person not a student attending the school but is affiliated with a school corporation, charter school, or nonpublic school; (2) the person engages in sexual conduct with a student who attends the school; and (3) the student is at least 16 and less than 18 years of age. Makes interference with custody rights: (1) a Class C felony if it is committed by removing a child to a location outside Indiana or failing to return a child to Indiana; and (2) a Class B felony if the child is removed to another country or if the person fails to return the child from another country.

Effective: July 1, 2008.

Lubbers

January 8, 2008, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
January 24, 2008, amended, reported favorably — Do Pass.

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SB 180—LS 6675/DI 106+



January 25, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 180

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-42-3-4, AS AMENDED BY P.L.164-2007,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 4. (a) A person who, with the intent to deprive
4 another person of child custody rights, knowingly or intentionally:

5 (1) removes another person who is less than eighteen (18) years
6 of age to a place outside Indiana when the removal violates a
7 child custody order of a court; or

8 (2) violates a child custody order of a court by failing to return a
9 person who is less than eighteen (18) years of age to Indiana;

10 commits interference with custody, a ~~Class D~~ **Class C** felony.
11 However, the offense is a ~~Class C~~ **felony** if the other person is less than
12 fourteen (14) years of age and is not the person's child; and a Class B
13 felony if the person removes the child to another country or fails to
14 return the child from another country, or if the offense is committed
15 while armed with a deadly weapon or results in serious bodily injury to
16 another person.

17 (b) A person who with the intent to deprive another person of

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custody or parenting time rights:

- (1) knowingly or intentionally takes;
- (2) knowingly or intentionally detains; or
- (3) knowingly or intentionally conceals;

a person who is less than eighteen (18) years of age commits interference with custody, a Class C misdemeanor. However, the offense is a Class B misdemeanor if the taking, concealment, or detention is in violation of a court order.

(c) With respect to a violation of this section, a court may consider as a mitigating circumstance the accused person's return of the other person in accordance with the child custody order or parenting time order within seven (7) days after the removal.

(d) The offenses described in this section continue as long as the child is concealed or detained or both.

(e) If a person is convicted of an offense under this section, a court may impose against the defendant reasonable costs incurred by a parent or guardian of the child because of the taking, detention, or concealment of the child.

~~(g)~~ (f) It is a defense to a prosecution under this section that the accused person:

- (1) was threatened; or
- (2) reasonably believed the child was threatened;

which resulted in the child not being timely returned to the other parent resulting in a violation of a child custody order.

SECTION 2. IC 35-42-4-7, AS AMENDED BY P.L.1-2005, SECTION 228, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) As used in this section, "adoptive parent" has the meaning set forth in IC 31-9-2-6.

(b) As used in this section, "adoptive grandparent" means the parent of an adoptive parent.

(c) As used in this section, "charter school" has the meaning set forth in IC 20-18-2-2.5.

~~(c)~~ (d) As used in this section, "child care worker" means a person who:

- (1) provides care, supervision, or instruction to a child within the scope of the person's employment in a shelter care facility; or
- (2) is employed by **or affiliated with a:**

(A) school corporation;

(B) charter school; or

~~(B)~~ (C) nonpublic school;

attended by a child who is the victim of a crime under this chapter, **regardless of how or whether the person is**

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1 **compensated.**

2 **The term does not include a student who attends the school.**

3 ~~(d)~~ **(e)** As used in this section, "custodian" means any person who
4 resides with a child and is responsible for the child's welfare.

5 ~~(e)~~ **(f)** As used in this section, "nonpublic school" has the meaning
6 set forth in IC 20-18-2-12.

7 ~~(f)~~ **(g)** As used in this section, "school corporation" has the meaning
8 set forth in IC 20-18-2-16.

9 ~~(g)~~ **(h)** As used in this section, "stepparent" means an individual
10 who is married to a child's custodial or noncustodial parent and is not
11 the child's adoptive parent.

12 ~~(h)~~ **(i)** If a person who is:

13 (1) at least eighteen (18) years of age; and

14 (2) the:

15 (A) guardian, adoptive parent, adoptive grandparent,
16 custodian, or stepparent of; or

17 (B) child care worker for;

18 a child at least sixteen (16) years of age but less than eighteen
19 (18) years of age;

20 engages with the child in sexual intercourse, deviate sexual conduct (as
21 defined in IC 35-41-1-9), or any fondling or touching with the intent to
22 arouse or satisfy the sexual desires of either the child or the adult, the
23 person commits child seduction, a Class D felony.

24 **SECTION 3. [EFFECTIVE JULY 1, 2008] IC 35-42-3-4 and**
25 **IC 35-42-4-7, both as amended by this act, apply only to crimes**
26 **committed after June 30, 2008.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 180, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 6, reset in roman "Class C misdemeanor."

Page 2, line 6, delete "Class D felony."

Page 2, line 7, reset in roman "Class B misdemeanor."

Page 2, line 6, delete "Class C felony."

Page 3, between lines 1 and 2, begin a new line blocked left and insert:

"The term does not include a student who attends the school."

and when so amended that said bill do pass.

(Reference is to SB 180 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 0.

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